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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 TERRANCE JON IRBY,

12 v.
13 Plaintiff,

14 STATE OF WASHINGTON, et al.,

15
16 Defendants.

17 CASE NO. 3:15-cv-05208-RBL-JRC

18 ORDER GRANTING MOTION TO
19 WITHDRAW IN PART

20 This 42 U.S.C. § 1983 civil rights matter has been referred to the undersigned Magistrate
21 Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judge Rules MJR1,
22 MJR 3, and MJR 4.

23 Before the Court is plaintiff's motion to withdraw documents. Dkt. 256-1.¹ Plaintiff seeks
24 to withdraw the documents he filed on January 3 and January 4, 2018, specifically an "answer"
25 to the Court's report and recommendation and several documents supporting that "answer." See

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¹ The Court notes that plaintiff and defendants have several other matters pending before this Court, the
28 District Court, and the Ninth Circuit Court of Appeals, some ready for consideration and some not yet ready. *See*
29 Dkts. 257, 261, 266, 270, 275, 276, 278. This Court will make determinations of the additional matters in other
30 orders or reports and recommendations.

1 Dkts. 246-255. The Court notes that the Honorable Ronald B. Leighton has already adopted the
2 Court's report and recommendation. Dkt. 245. However, that order was filed before plaintiff's
3 above noted documents were placed on the record. As such, Judge Leighton did not have the
4 opportunity to take them into account when making his determination. Further, though it had not
5 yet been placed on the docket, plaintiff filed this motion to withdraw before the District Court
6 filed its order, indicating he did not want Judge Leighton to take any of the documents into
7 account when making his ruling. Because of this unique posture, withdrawal of these documents
8 will not affect plaintiff's pending appeal at the Ninth Circuit, where he challenges the District
9 Court's order and focuses on allegedly fraudulent statements presented to the Court. *See* Dkt.
10 273. Further, the Court has made no ruling on any of these documents yet. *See* LCR 7(l).
11 Therefore, withdrawal of these documents is appropriate.

12 However, the District Court has already ruled on plaintiff's notice of appeal to district
13 judge. Dkts. 248, 278. Because that motion is no longer pending, withdrawal is now improper.
14 *See* LCR 7(l). The Court denies plaintiff's motion to withdraw as to his notice of appeal.

15 Therefore, it is ORDERED:

- 16 1) Plaintiff's motion to withdraw is GRANTED IN PART.
17 2) The Clerk is directed to strike all of plaintiff's requested documents (Dkts. 246-247,
18 249-255) except the notice of appeal to district judge (Dkt. 248).

19 Dated this 14th day of February, 2018.



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21 J. Richard Creatura
22 United States Magistrate Judge
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